

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JOHN LUCKETT,

Case No. 3:20-cv-00684-MMD-WGC

**Petitioner,**

## ORDER

v.

**STATE OF NEVADA,**

## Respondent.

11 On December 9, 2020, Petitioner John Luckett, then an inmate in the custody of  
12 the Nevada Department of Corrections, initiated this civil rights action pursuant to 42  
13 U.S.C. § 1983 alleging an illegal sentence. (ECF No. 1-1.) On January 15, 2021, the  
14 Defendant filed a suggestion of death on the record. (ECF No. 7.) On January 19, 2021,  
15 pursuant to Federal Rule of Civil Procedure 25(a)(1), the Court directed any party or the  
16 decedent's successor or representative to file a motion for substitution within 90 days  
17 after service of a statement noting death. (ECF No. 8.) That deadline has now expired,  
18 and no party has filed a motion for substitution.

Under Federal Rule of Civil Procedure 25(a)(1), “[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1).

24 | //

25 | //

26 | //

27 | //

28 | //

1        It is therefore ordered that this action is dismissed with prejudice because no  
2 motion for substitution was made in accordance with the Court's order.

3        The Clerk of Court is directed to enter judgment accordingly and close this case.  
4  
5        DATED THIS 21<sup>st</sup> Day of April 2021.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



---

MIRANDA M. DU  
CHIEF UNITED STATES DISTRICT JUDGE